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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,924	10/20/2003	Krisztian Flautner	550-463	8335
23117	7590	02/13/2006	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				KIM, HAROLD J
ART UNIT		PAPER NUMBER		
2181				

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/687,924	FLAUTNER ET AL.	
	Examiner Harold Kim	Art Unit 2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 September 2005 and 12 October 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3-8 and 10-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,3-8 and 10-14 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 06 January 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

1. This Office Action is in response to the filing of the Amendments, on 9/29/2005 and 10/12/2005. Arguments have been considered but they are not persuasive. Accordingly, this action is made **FINAL**.

2. Claims 1, 3-8, and 10-14 are presented for examination.
3. The Amendments filed on 9/29/2005 and 10/12/2005 have been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-8, and 10-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following terms are lack of proper antecedent basis:

"the count value" - claim 1, line 9; claim 8, line 10;

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Cooper et al., US Patent no. 6,829,713.**

6. In re claim 1, Cooper et al. shows apparatus for processing data [figs 2 and 7], said apparatus processing work [col 7, line 47] at a variable rate of work [710, fig 7] and comprising:

a performance counter [col 7, lines 53-56] operable to add a work increment value [710, fig 7; col 7, line 67] to an accumulated work done value [Prior System Independent Timer Value, 704, fig 7] to accumulate a work done value [Current Time Stamp Counter Value, 704, 708, fig 7] indicative of an amount of processing work performed by said apparatus; and

a clock signal generator [Clock generator, 208, fig 2] operable to generate a clock signal [col 4, line 27] to drive processing operations of said apparatus, said clock signal having a variable frequency [218, fig 2; col 4, lines 20-34], wherein said work increment value is variable [708, 710, fig 7] so as to represent said variable rate of work and said work increment value is dependent upon a clock signal frequency value at or close to a time that the count value is incremented [col 4, lines 20-34; col 7, line 43 to col 8, line 7].

7. In re claim 3, Cooper et al. shows an increment value adjusting circuit [fig 2] operable to adjust said work increment value in dependence upon said clock signal frequency [col 4, line 11 to col 4, line 65].

8. In re claim 4, Cooper et al. shows said work increment value variable non-linearly with said clock signal frequency [col 4, line 11 to col 4, line 65; 710, fig 7].

9. In re claim 5, Cooper et al. shows a variable voltage power supply operable to supply electrical power to said apparatus at a plurality of different supply voltages, said

clock signal generator being operable to generate higher frequency clock signals at higher supply voltages [col 2, lines 32-45].

10. In re claim 6, Cooper et al. shows said work increment value is programmable under software control [col3, line 64].

11. In re claim 7, Cooper et al. shows said work increment value is varied with a read-modify-write operation [fig 7].

12. wherein said work increment value is

13. In re claims 8, 10-14, Cooper et al. teaches the apparatus to carry out the operations as set forth in claims 1, 3-7. Therefore, Cooper et al. also teaches the method steps in using the apparatus.

Response to Arguments

Applicant's arguments filed have been fully considered but they are not persuasive.

In the remarks, applicants argued in substance that (1) a clock signal has a variable frequency.

Examiner respectfully traverses applicants' remarks.

As to point (1), Cooper et al. shows a clock signal has a variable frequency [218, fig 2; col 4, lines 20-34]. Cooper et al. states that a bus ratio or multiplier 212 is selected using a clock control signal, GHI# 202 and a higher frequency central

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processing unit clock signal is generated utilizing PLL 218 [col 4, lines 25-27]. In addition, Cooper et al. also states that a higher multiplier or ratio 212 of say 7 to 1 could be selected, yielding a CPU clock frequency of approximately 700 MHz [col 4, lines 32-35].

Conclusion

Applicant's arguments filed have been fully considered but they are not persuasive. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The centralized fax number is 571-273-8300.

The centralized hand carry paper drop off location is:

U.S. Patent and Trademark Office
Customer Service Window, Mail Stop _____

Art Unit: 2182

Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application should be directed to the central telephone number (571) 272-2100.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold Kim whose telephone number is 571-272-4148. The examiner can normally be reached on Monday-Thursday 6AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh can be reached on 571-272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Harold J. Kim
Patent Examiner
January 26, 2006/HK


KIM HUYNH
SUPERVISORY PATENT EXAMINER
